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**PIPER RUDNICK** LLP  
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DOCKET NO.: 9558-003-27

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

Re: Serial No.: 09/865,579  
Applicant(s): TOSHIKI TAYA, ET AL.  
Filing Date: MAY 29, 2001  
For: OLIGONUCLEOTIDES AND METHOD FOR DETECTION OF MECA  
GENE OF METHICILLIN-RESISTANT *STAPHYLOCOCCUS AUREUS*  
Group Art Unit: 1634  
Examiner: EINSMANN, J.

SIR:


Attached hereto for filing are the following papers:

FEE TRANSMITTAL  
REQUEST FOR EXTENSION OF TIME (1 MONTH)  
RESPONSE TO RESTRICTION REQUIREMENT

Our check in the amount of \$ 110.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary extension of time to make the filing of the attached documents timely, please charge or credit the difference to Deposit Account No. 50-1442. Further, if these papers are not considered timely filed, then a request is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

PIPER RUDNICK LLP

  
\_\_\_\_\_  
Steven B. Kelber  
Attorney of Record  
Registration No.: 30,073

Perry E. Van Over  
Registration No.: 42,197

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## FEE TRANSMITTAL

<b>FEE TRANSMITTAL</b>		Docket No.	9558-003-27																																					
		Serial No.	09/865,579																																					
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		Inventor(s)	TOSHIKI TAYA, ET AL.																																					
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TOTAL AMOUNT OF PAYMENT		\$110.00	Examiner	EINSMANN, J.																																				
<div>1. <input type="checkbox"/> Applicant claims small entity status. <input checked="" type="checkbox"/> Charge any <u>UNDERPAYMENT</u> or credit any <u>OVERPAYMENT</u> in the indicated fees to Deposit Account No. 50-1442. <input type="checkbox"/> Charge the indicated fees to Deposit Account No. 50-1442.</div>		<b>FEE CALCULATION (continued)</b>																																						
		<b>3. ADDITIONAL FEES</b>																																						
2. <input checked="" type="checkbox"/> Check enclosed.																																								
<b>FEE CALCULATION</b>																																								
<b>1. BASIC FILING FEE</b>																																								
<table border="1"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th>Fee Description</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th><th></th></tr></thead><tbody><tr><td>1001</td><td>740</td><td>2001</td><td>370</td><td>Utility filing fee</td></tr><tr><td>1002</td><td>330</td><td>2002</td><td>165</td><td>Design filing fee</td></tr><tr><td>1003</td><td>510</td><td>2003</td><td>255</td><td>Plant filing fee</td></tr><tr><td>1004</td><td>740</td><td>2004</td><td>370</td><td>Reissue filing fee</td></tr><tr><td>1005</td><td>160</td><td>2005</td><td>80</td><td>Provisional filing fee</td></tr></tbody></table>		Large Entity		Small Entity		Fee Description	Fee Code	Fee (\$)	Fee Code	Fee (\$)		1001	740	2001	370	Utility filing fee	1002	330	2002	165	Design filing fee	1003	510	2003	255	Plant filing fee	1004	740	2004	370	Reissue filing fee	1005	160	2005	80	Provisional filing fee				
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<b>SUBTOTAL (1)</b>		\$0.00																																						
<b>2. EXTRA CLAIM FEES</b>																																								
tot. claims		- 20* = 0 x \$18 = 0																																						
ind. claims		- 3* = 0 x \$84 = 0																																						
<input type="checkbox"/> Multiple Dependent Claims		\$280 =																																						
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* or number previously paid, if greater; For Reissues, see above																																								
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Name	Steven B. Kelber	Registration No.	30,073		
Signature		Date	Nov 26, 2002	Telephone	202-861-3900
Name	Perry E. Van Over	Registration No.	42,197		

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12/4/02

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: TOSHIKI TAYA, ET AL.

ART UNIT: 1634

SERIAL NO.: 09/865,579

EXAMINER: EINSMANN, J.

FILING DATE: MAY 29, 2001

FOR: OLIGONUCLEOTIDES AND METHOD FOR DETECTION OF MECA  
GENE OF METHICILLIN-RESISTANT *STAPHYLOCOCCUS AUREUS*

**RESPONSE TO RESTRICTION REQUIREMENT**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Responsive to the Restriction Requirement dated September 26, 2002, Applicants elect, albeit with traverse, Group II, Claims 5-8 for further prosecution at this time. A Request for Extension of Time for one month is attached hereto and incorporated herein by reference, thereby extending the date for response from October 26, 2002 to November 26, 2002.

**REMARKS**

The Examiner has required restriction in the above-identified application as follows:

Group I: Claims 1-4, drawn to oligonucleotides within the *mecA* gene, classified in class 536, subclass 24:32.

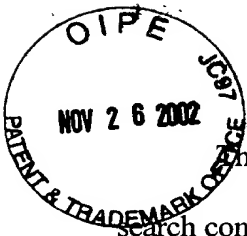
Group II: Claims 5-8, drawn to detection methods employing an RNA amplification process, classified in class 435, subclass 91.2.

Applicants respectfully traverse the restriction requirement on the basis that there is no undue burden on the Examiner. Furthermore, Applicants respectfully request rejoinder of Claims 1-4 and Claims 5-8.

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The basis for Applicants' traversal is that there is no undue burden on the Examiner. Any search conducted by the Examiner for the process defined by Claims 5-8 of the present invention will necessarily encompass a search for the oligonucleotide of Claims 1-4 since the process of Claims 5-8 involves the oligonucleotide of Claims 1-4. The Examiner's assertion that the product of Group I can be used in other methods is conjecture without a recitation providing foundation therefor. Accordingly, Applicants respectfully request rejoinder of Claims 1-4 and Claims 5-8.

In view of the foregoing, Applicants further request the consideration of the requirement for restriction and continued prosecution on the merits of all claims in this application.

However, in the event that the Examiner chooses not to rejoin and consider Claims 1-4 of Group I and Claims 5-8 of Group II, Applicants elect the claims of Group II, Claims 5-8, with traverse, for examination on the merits. Applicants further reserve the right to file one or more divisional applications to the non-elected subject matter, if they so wish.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited.

Respectfully submitted,

PIPER RUDNICK LLP

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